

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**IN RE:**

**JOHN PATRICK BOYLAN  
10220 Memorial Dr. #75  
Houston, TX 77024  
SSN: XXX-XX-0420**

**DEBTOR**

§  
§  
§  
§  
§  
§  
§  
§

**CASE NO. 07-38742-H3-7**

**CHAPTER 7**

**TRUSTEE'S MOTION FOR AUTHORITY TO SELL ESTATE'S  
INTEREST IN BIRDWELL GP, LLC AND BOYLAN ENERGY CORP.**

**Pursuant to Local Rule 9013:**

**THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 20 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT HEARING.**

**REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.**

**TO THE HONORABLE JUDGE OF SAID COURT:**

COMES NOW, Ronald J. Sommers, Trustee, and files this Motion for Authority to Sell Estate's Interest in Birdwell GP, LLC and Boylan Energy Corp., and in support thereof, asserts the following:

### **JURISDICTION**

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and 28 U.S.C. § 157. This is a core proceeding under 28 U.S.C. § 157(b)(2)(N) and (O). This is an action under Federal Rule of Bankruptcy Procedure 6004 and corresponding local rules, 11 U.S.C. § 363 to sell property of the estate, and 11 U.S.C. § 105(a) for an order that is appropriate to carry out the provisions of Title 11 of the United States Code.

2. Venue is proper under 28 U.S.C. § 1409.

### **RELEVANT FACTUAL BACKGROUND**

3. On December 21, 2007, John Patrick Boylan (“Debtor”) filed a petition under Chapter 7 of the United States Bankruptcy Code. Ronald J. Sommers was appointed Chapter 7 Trustee for the Bankruptcy Estate of the Debtor.

4. The Bankruptcy Estate is the owner of a 28% membership interest in Birdwell GP, LLC and a 100% shareholder interest in Boylan Energy Corp. (collectively, “Assets”).

### **PROPOSED SALE OF ASSETS**

5. Cadleway Properties, Inc. (“Buyer”) has tendered an offer of \$3,000 to the Trustee to purchase the Assets, pending this Court’s approval of the sale. The terms of the sale are as follows:

- (i) The purchase price for the Assets shall be \$3,000.
- (ii) The Assets shall be conveyed to the Buyer free and clear of all liens, claims, and encumbrances, if any.
- (iii) The Assets are being sold **“AS IS” with the Trustee making NO REPRESENTATIONS OR WARRANTIES.**

6. The Trustee and the Buyer have negotiated in good faith and at arm's length in this transaction and the Trustee asks the Court to make a finding to that effect. The Trustee is not aware of any liens, claims, or encumbrances on the Assets.

7. The Trustee believes that the sale to the Buyer is in the best interests of the Estate and the creditors for the following reasons. The Trustee believes the consideration from the Buyer (\$3,000) is a fair price. The Debtor values the Assets at \$0. [Docket No. 1] The Trustee also believes that the Assets have no value to the Estate. The Trustee has received no other offers for the Assets. The Trustee believes that there is a limited market for the Assets. The Estate has incurred no advertising or marketing costs in connection with this sale. Finally, the Trustee does not need to make any representations or warranties to the Buyer regarding the sale. The affidavit of Ronald J. Sommers, Trustee, in support of this sale is attached hereto as **Exhibit "A."**

8. Accordingly, the Trustee asks the Court to approve the sale of the Assets, "as is, where is" and free and clear of all liens, claims, and encumbrances, if any.

WHEREFORE Ronald J. Sommers, Trustee, respectfully prays that the Court grant him the authority to sell the Assets on the terms set forth herein and for such other and further relief to which the Trustee may show himself to be justly entitled.

Respectfully submitted,

By: /s/ Jennifer L. Haluptzok  
Gretchen Gauer McCord  
Texas Bar No. 00798203  
Jennifer L. Haluptzok  
Texas Bar No. 24053058  
2800 Post Oak Blvd., 61st Floor  
Houston, TX 77056  
(713) 960.0303 - Phone

(713) 892.4800-Fax  
ATTORNEYS FOR RONALD J. SOMMERS,  
TRUSTEE

OF COUNSEL:

NATHAN SOMMERS JACOBS  
A Professional Corporation  
2800 Post Oak Blvd., 61st Floor  
Houston, TX 77056  
(713) 960.0303-Phone  
(713) 892-4800-Facsimile

**CERTIFICATE OF SERVICE**

This is to certify that a true copy of the foregoing Trustee's Motion for Authority to Sell Estate's Interest in Birdwell GP, LLC and Boylan Energy Corp. has been forwarded to those parties listed below and in Exhibit "1" by U.S. mail, first class, postage prepaid on this 11<sup>th</sup> day of April, 2008

**By U.S. Mail and Facsimile**

Jon Gluckner  
Assistant Vice President  
Cadleway Properties, Inc.  
100 North Center Street  
Newton Falls, OH 44444  
Fax: (330) 872-5367

**By U.S. Mail and Facsimile**

Mark Kerstein, Esq.  
9801 Westheimer  
Suite 302  
Houston, TX, 77042  
Fax: (713) 917-6891

By: /s/ Jennifer L. Haluptzok  
Jennifer L. Haluptzok

**Service List**

**Debtor**

John Patrick Boylan  
10220 Memorial Dr. #75  
Houston, Texas 77024

**Debtor's Attorney**

Reese W Baker  
Baker & Associates LLP  
5151 Katy Freeway Ste 200  
Houston, TX 77007

**U.S. Trustee**

Office of the US Trustee  
515 Rusk Ave., Ste 3516  
Houston, TX 77002

**Creditors**

Household Bank (SB), N.A.  
c/o Bass & Associates, P.C.  
3936 E. Ft. Lowell Road, Suite #200  
Tucson, AZ 85712

Land Star Investments, LLC  
706 West Castlewood  
Friendswood, TX 77546

American Pipe Inspection  
P.O. Box 9670  
Houston, Texas 77213-9670

Cadleway Properties  
Attn: 0K250004  
100 North Center St  
Newton Falls, OH 44444

Comerica Bank  
Attn: Mario Nava  
SBA Division  
P.O. Box 4167  
Houston, Texas 77210

Comerica Bank  
SBA Division  
5251 Westheimer  
Houston, TX 77056

Countrywide  
450 American St  
Simi Valley, CA 93065

First Community Bank  
P.O. Box 752289  
Houston, Texas 77275

Five Star Transportation  
P.O. Box 9670  
Houston, Texas 77002

Five Star Transportation  
P.O. Box 9670  
Houston, Texas 77213

G M A C  
Po Box 2150  
Greeley, CO 80632

GMAC  
PO Box 130424  
Roseville, MN 55113

HSBC Business Credit  
One HSBC Cetner, 29th Floor  
Buffalo, NY 14203

Hays McConn Rice & Pickering PC  
1200 Smith St  
Houston, Texas 77002

Hi-Way Equipment  
6203 Long Dr.  
Houston, Texas 77087

Hibernia National Bank  
P.O.Box 61540  
New Orleans, LA 70161

Houstonian Club & Spa  
111 North Post Oak Lane  
Houston, Texas 77024

HSBC/Neiman Marcus  
PO Box 15221  
Wilmington, DE 19850

Internal Revenue Service  
Insolvency Section  
1919 Smith St.  
Stop 5022 HOU  
Houston, TX 77002

Internal Revenue Service  
Mail Stop 5024 HOU  
1919 Smith  
Houston, TX 77002

Internal Revenue Service  
P.O. Box 21126  
Philadelphia, PA 19114

John Deere Credit  
P.O. Box 77000  
Detroit, MI 48277-0039

Landstar Investments  
706 West Castlewood  
Friendswood, Texas 77546

Mark Kerstien  
700 Louisiana #5100  
Houston, Texas 77072

Martha Bourne & Associates  
1177 West Loop South #650  
Houston, Texas 77027

Memorial Creole Apartments  
10220 Memorial Dr.  
Houston, Texas 77024

Monogram Bank N America  
4060 Ogletown/stan De5-019-03-07  
Newark, DE 19713

Peter Boylan  
345 California St., Suite 2550  
San Francisco, CA 94104

Rebecca Birdwell Boylan  
450 Westminster  
Houston, Texas 77024

Rick Lawrence  
7814 Rockside Lane  
Spring, Texas 77379

Sojourn Partners, LLC  
Moore & Associates  
Attn: Holly Moore  
440 Louisiana St. #710  
Houston, Texas 77002

Texaco/Citibank  
PO Box 6003  
Hagerstown, MD 21747

Verizon Wireless Bankruptcy Dept.  
P.O. Box 3397  
Bloomington, IL 61702

Vincent Hazen  
810 West 10 st.  
Austin, Texas 78701-2005

William T. Winston  
6740 Joyce Way  
Dallas, Texas 75225

Xxtreme Pipe Services  
7814 Miller Road No. 3  
Houston, Texas 77043

**Parties Requesting Notice**

Harris County, et al  
Attn: John P. Dillman  
P.O. Box 3064  
Houston, TX 77253-3064

Fred Bosse  
13410 Holly Park  
Houston, Texas 77015

Holly Moore  
Moore & Associates  
440 Louisiana St. #710  
Houston, Texas 77002

Mark A. Kerstein  
9801 Westheimer, Suite 302  
Houston, TX 77042